

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

LONNIE EARNEST, Individually and on  
Behalf of Others Similarly Situated,

v.

RANDSTAD TECHNOLOGIES, LLC

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Case No.: 1:20-cv-137

Jury Trial Demanded

**ORIGINAL COMPLAINT**

**SUMMARY**

1. Randstad Technologies, LLC does not pay its hourly employees overtime as required by the Fair Labor Standards Act, 29 U.S.C. §201, *et. seq.* (FLSA).

2. Instead, Randstad pays its hourly employees the same hourly rate for all hours worked in a workweek, including those in excess of 40 in a workweek (straight-time-for-overtime).

3. Randstad's straight-time-for-overtime pay plan violates the FLSA because hourly employees are owed overtime for hours worked in excess of 40 in a week at the rate of one-and-one-half times their regular rates.

4. Lonnie Earnest (Earnest) brings this action to recover the unpaid overtime and other damages owed to him and the other employees to whom Randstad paid straight-time-for-overtime.

**JURISDICTION AND VENUE**

5. This Court has original jurisdiction pursuant to 28 U.S.C. § 1331 because this action arises under a federal statute. 29 U.S.C. § 216(b).

6. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(2) because a substantial portion of the acts and omissions Earnest complains of occurred in this District and Division.

### **PARTIES**

7. Earnest worked for Randstad as a project manager within the last 3 years.
8. During his employment Randstad paid Earnest the same hourly rate for all the hours he worked including those in excess of 40 in a workweek.
9. Earnest's consent to be party plaintiff is attached as Exhibit A.
10. Earnest brings this FLSA collective action on behalf of himself and all other of Randstad's employees who were paid according to Randstad's straight-time-for-overtime pay plan.
11. The FLSA collective group of employees Earnest seeks to represent consists of:  
  
**All hourly employees employed by Randstad in the U.S. and who were paid according to Randstad's straight-time-for-overtime pay plan at any time during the last 3 years** (the Straight-Time Workers).
12. Randstad is a Delaware limited liability company with its headquarters in Atlanta, Georgia.
13. Randstad is registered to do business in Texas, regularly conducts business in Texas, and has/had employees working in Texas, including Earnest.
14. Randstad may be served with process by serving its registered agent: Corporation Service Company d/b/a CSC-Lawyers Incorporating Service Company, 211 East 7th St., Suite 620, Austin, Texas, 78701-3218.

### **FLSA COVERAGE**

15. For at least the past 3 years, Randstad has been an employer within the meaning of section 3(d) of the FLSA. 29 U.S.C. § 203(d).
16. For at least the past 3 years, Randstad has been part of an enterprise within the meaning of section 3(r) of the FLSA. 29 U.S.C. § 203(r).

17. For at least the past 3 years, Randstad has been part of an enterprise engaged in commerce or in the production of goods for commerce within the meaning of section 3(s)(1) of the FLSA, 29 U.S.C. § 203(s)(1).

18. Randstad has, and has had, employees engaged in commerce or in the production of goods for commerce, or employees handling, selling, or otherwise working on goods or materials (including computers, peripherals, smart phones/devices, office equipment, etc.) that have been moved in or produced for commerce.

19. Further, Randstad's annual gross volume of sales has well exceeded \$1,000,000 for at least the past 3 years.

20. For at least the past 3 years, Earnest and the Straight-Time Workers were engaged in commerce or in the production of goods for commerce or were employees who handled, sold, or otherwise worked on goods or materials that had been moved in or produced for commerce by any person.

21. Randstad treated all the Straight-Time Workers (including Earnest) as employees by setting their work schedules, controlling their job assignments, withholding taxes from their pay, and maintaining their personnel records.

#### **FACTS**

22. Randstad provides staffing solutions in various sectors including information technology (IT), accounting, engineering, and call centers.<sup>1</sup>

23. Earnest and the Straight-Time Workers are among the employees who provide the staffing services for and on behalf of Randstad.

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<sup>1</sup> <https://www.randstadusa.com/>

24. Randstad's Straight-Time Workers, including Earnest, typically worked more, indeed often substantially more, than 40 hours a week.

25. Randstad paid all its Straight-Time Workers pursuant to its straight-time-for-overtime pay plan.

26. On or before June of 2016, Earnest began work for Randstad in Taylor, Texas. He continued to work for Randstad, later in Austin, Texas, through May of 2019.

27. As a project manager Earnest was responsible for creating and maintaining Microsoft project schedules, measuring performance, weekly and quarterly manager updates, and managing a team of workers from across various IT disciplines.

28. Randstad's records reflect the hours Earnest worked each workweek and pay period.

29. Randstad paid Earnest an hourly rate for all the hours he worked, including those in excess of 40 in a week.

30. Randstad did not guarantee Earnest a minimum salary per week.

31. If Earnest worked less than 40 hours in a week he was only paid for those hours.

32. For example, as shown in the following paystub from Randstad, for the workweek of December 25, 2017 to December 31, 2017 Earnest worked 9.8 hours on Wednesday, December 27; 10.2 hours on Thursday, December 28; and 10 hours on Friday, December 29, for a total of 30 hours (see following page):

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<b>Randstad Technologies, LLC</b> 3625 Cumberland Blvd Atlanta GA 30339 866/435-7456		Pay Group: RTD Pay Begin Date: 12/25/2017 Pay End Date: 12/31/2017	Business Unit: RTDBU Advice #: 38704394 Advice Date: 01/05/2018												
<b>Lonnie Reuben Earnest</b> 102 Grant Cove Hutto, TX 78634	Employee ID: 50000045296 Department: 35003 - RT Austin Location: 8310 Capital of Texas Highway Pay Rate: \$0.00 Employee Type: Hourly	<b>TAX DATA:</b> Marital Status: Married Allowances: 4 Addl. Pet: 0 Addl. Amt: \$0.00													
<b>HOURLS AND EARNINGS</b>		<b>TAXES</b>													
<b>Description</b> Regular Earnings	<b>Rate</b> 72.00	<b>Current Hours</b> 30.00	<b>Current Earnings</b> 2,160.00												
		<b>YTD Hours</b> 30.00	<b>YTD Earnings</b> 2,160.00												
<b>TOTAL:</b>		<b>30.00</b>	<b>2,160.00</b>												
<b>BEFORE-TAX DEDUCTIONS</b>		<b>AFTER-TAX DEDUCTIONS</b>													
<b>Description</b> RDen Pre Med Pretax RVis Pre	<b>Current</b> 22.17 293.04 6.89	<b>YTD</b> 22.17 293.04 6.89	<b>Description</b> RPS LTD Child Life RVOLLIFE RSPLIFE STD Vol AD EE												
			<b>Current</b> 9.65 0.49 23.77 2.05 11.56 1.85												
			<b>YTD</b> 9.65 0.49 23.77 2.05 11.56 1.85												
<b>TOTAL:</b>		<b>322.10</b>	<b>322.10</b>												
<b>TOTAL GROSS</b>		<b>FED TAXABLE GROSS</b>													
<b>Current</b>	2,160.00	1,837.90													
<b>YTD</b>	2,160.00	1,837.90													
<b>TOTAL TAXES</b>		<b>TOTAL DEDUCTIONS</b>													
326.67		371.47													
<b>TOTAL:</b>		<b>NET PAY</b>													
326.67		1,461.86													
<b>Customer ID</b>		<b>Customer Name</b>													
3000015962		ERCOT/ALLEGIS/FIELDGLASS													
<b>Address Line 1 / Line 2</b>		<b>City</b>													
2705 West Lake Drive		Taylor													
<b>State</b>		<b>Postal Code</b>													
TX		76574													
<b>Telephone</b>															
<b>Leave Balances</b>		<b>NET PAY DISTRIBUTION</b>													
<b>Leave Description</b>	<b>Total Hrs</b>	<b>Account Type</b>	<b>Account Number</b>												
	<b>Avail Hrs</b>	38704394	*****4111												
		Checking	1,461.86												
<b>TOTAL:</b>		<b>\$1,461.86</b>													
<b>Wage Payment Notice</b>															
<b>Client</b>	<b>Earnings</b>	<b>Sun Rate</b>	<b>Mon Rate</b>	<b>Tue Rate</b>	<b>Wed Rate</b>	<b>Thu Rate</b>	<b>Fri Rate</b>	<b>Sat Rate</b>	<b>Hours</b>						
3000015962	Reg Earns														

33. For this pay period Randstad paid Earnest for only the 30 hours he worked that week at his regular, straight-time hourly rate. *See Id.*

34. Although he often worked well over 40 hours per workweek, Randstad never paid Earnest proper overtime but, rather, paid him straight-time-for-overtime.

35. Again, by way of example, for the workweek of March 12, 2018 to March 18, 2018 Earnest worked 10 hours on Monday, March 13); 11 hours on Tuesday, March 14);, 10 hours on Wednesday, March 15; 9.25 hours on Thursday, March 16; and 10 hours on Friday, March 17, for a total of 50.25 hours:

<b>Randstad Technologies, LLC</b> 3625 Cumberland Blvd Atlanta GA 30339 866/435-7456			Pay Group: RTD Pay Begin Date: 03/12/2018 Pay End Date: 03/18/2018			Business Unit: RTDBU Advice #: 39748743 Advice Date: 03/23/2018																																						
<b>Lonnie Reuben Earnest</b> 102 Grant Cove Hutto, TX 78634						<b>TAX DATA:</b> Marital Status: Married Allowances: 4 Addl. Pct: 0 Addl. Amt: \$0.00																																						
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3000015962	Reg Earns			72.00	10.00	72.00	11.00	72.00	10.00	72.00	9.25	72.00	10.00																															

38. The Straight-Time Workers worked similar hours and were denied overtime as a result of the same illegal straight-time-for-overtime pay practice.

39. All of Randstad's Straight-Time Workers regularly worked in excess of 40 hours in a workweek.

40. Instead of paying the Straight-Time Workers overtime, Randstad paid them only their regular hourly rates for all their working hours including those in excess of 40 in a workweek.

41. As a result, Randstad failed to pay the Straight-Time Workers proper overtime compensation for hours worked in excess of 40 in a workweek.

#### **FLSA VIOLATIONS**

42. Earnest incorporates all preceding paragraphs.

43. Randstad's straight-time-for-overtime pay plan violates the FLSA because Earnest and the other Straight-Time Workers did not receive overtime pay for hours worked over 40 in a week at the rate of 1.5 times their regular hourly rates of pay.

44. Randstad knew, or showed reckless disregard for whether, its straight-time-for-overtime pay plan violated the FLSA.

45. Randstad's failure to pay proper overtime compensation to the Straight-Time Workers was not based on any reasonable interpretation of the law.

46. Nor was Randstad's decision not to pay proper overtime made in good faith.

47. Accordingly, Earnest and the Straight-Time Workers are entitled to recover their unpaid overtime under the FLSA, liquidated damages, attorney's fees, and costs.

#### **COLLECTIVE ACTION ALLEGATIONS**

48. Earnest incorporates all preceding paragraphs.

49. Numerous employees have been denied overtime by Randstad's straight-time-for-overtime pay plan which is in willful violation of the FLSA.

50. Numerous other individuals who worked with Earnest indicated they were paid in the same manner, performed similar work, and were not properly compensated for all hours worked as required by the FLSA.

51. From his observations and experience working for Randstad, Earnest is aware that Randstad's illegal practices or policies have been imposed on the Straight-Time Workers.

52. The Straight-Time Workers all regularly worked in excess of 40 hours per week and received only their regular hourly rates for all hours worked.

53. These Straight-Time Workers are similarly situated to Earnest in terms of *relevant* job duties, pay provisions, and employment practices.

54. Randstad's failure to pay overtime as required by the FLSA results from a generally applicable, systematic pay plan that is not dependent on the personal circumstances of the Straight-Time Workers.

55. Thus, Earnest's experiences are typical of the experiences of the Straight-Time Workers.

56. The specific job titles or precise job locations of the various Straight-Time Workers do not prevent collective treatment.

57. All Straight-Time Workers, regardless of their precise job requirements or rates of pay, are entitled to overtime for hours worked in excess of 40 in a week.

58. Earnest has no interests contrary to, or in conflict with, the Straight-Time Workers.

59. Like each Straight-Time Worker, Earnest has an interest in obtaining the unpaid overtime wages and other damages owed to him under federal law.

60. A collective action, such as the instant one, is superior to other available means for fair and efficient adjudication of the lawsuit.



61. Absent this collective action, many Straight-Time Workers likely will not obtain redress of their injuries and Randstad will reap the unjust benefits of violating the FLSA.

62. Furthermore, even if some of the Straight-Time Workers could afford individual litigation against Randstad, it would be unduly burdensome to the judicial system.

63. Although the issue of damages may be somewhat individual in character, there is no detraction from the common nucleus of liability facts.

64. Therefore, this issue does not preclude collective action treatment.

#### **JURY DEMAND**

65. Earnest demands a trial by jury.

#### **RELIEF SOUGHT**

66. Wherefore, Earnest prays for:

- (a) an order allowing his claims to proceed as a FLSA collective action and directing notice to the other Straight-Time Workers;
- (b) judgment finding Randstad in violation of the FLSA;
- (c) judgment finding Randstad liable to Earnest and the Straight-Time Workers for unpaid overtime and an equal amount of liquidated damages;
- (d) judgment awarding Earnest and the Straight-Time Workers reasonable attorneys' fees, costs, and expenses;
- (e) judgment awarding Earnest and the Straight-Time Workers pre- and post-judgment interest at the highest rates allowed by law; and
- (f) such other and further relief as may be necessary and appropriate.

Respectfully submitted,

**/S/ Michael K. Burke**

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**Michael K. Burke**

Texas Bar No.: 24012359

**Richard J. (Rex) Burch**

Texas Bar No.: 24001807

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AND

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**ATTORNEYS FOR PLAINTIFFS**

## EXHIBIT A

### FAIR LABOR STANDARDS ACT EMPLOYMENT SERVICES CONSENT

Print Name: Lonnie Reuben Earnest II

1. I hereby consent to make a claim against Randstad to pursue my claims of unpaid overtime during the time that I worked with the company.
2. I designate the law firm and attorneys at JOSEPHSON DUNLAP, LLP and BRUCKNER BURCH PLLC as my attorneys to prosecute and make decisions concerning my wage claims, the manner and method of conducting this litigation, the entering of an agreement with Plaintiffs' counsel concerning attorneys' fees and costs, and all other matters pertaining to this lawsuit.
3. I authorize the law firm and attorneys at JOSEPHSON DUNLAP, LLP and ~~BRUCKNER~~ BRUCKNER BURCH PLLC to use this consent to file my claim in a separate lawsuit, class/collective action, or arbitration against Randstad.
4. I understand that, by filing this Consent Form, I will be bound by the Judgment of the Court or arbitrator on all issues in this case.

Signature: *Lonnie Reuben Earnest II*  
Lonnie Reuben Earnest II (Jan 9, 2020)

Date Signed: Jan 9, 2020

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